

UNITED STATES DISTRICT COURT

for the
Southern District of TexasUnited States Courts
Southern District of Texas
FILED

March 22, 2023

Nathan Ochsner, Clerk of Court

In the Matter of the Search of
(Briefly describe the property to be searched
or identify the person by name and address)

T-Mobile USA, Inc.

Case No. 4:23-mj-548

APPLICATION FOR A WARRANT BY TELEPHONE OR OTHER RELIABLE ELECTRONIC MEANS

I, a federal law enforcement officer or an attorney for the government, request a search warrant and state under penalty of perjury that I have reason to believe that on the following person or property (identify the person or describe the property to be searched and give its location):

See Attachment A

located in the _____ District of _____ New Jersey _____, there is now concealed (identify the person or describe the property to be seized):

See Attachment B

INTRODUCTION AND AGENT BACKGROUND

The basis for the search under Fed. R. Crim. P. 41(c) is (check one or more):

- ☒ evidence of a crime;
☐ contraband, fruits of crime, or other items illegally possessed;
☐ property designed for use, intended for use, or used in committing a crime;
☐ a person to be arrested or a person who is unlawfully restrained.

The search is related to a violation of:

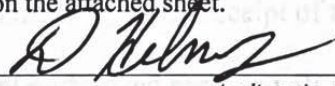
Code Section
 18 USC 2113(a)
 18 USC 924(c)

Offense Description
 Bank Robbery
 Brandishing of a Firearm During a Crime of Violence

The application is based on these facts:

See Attached Affidavit and Attachments A and B

- ☒ Continued on the attached sheet.
☐ Delayed notice of _____ days (give exact ending date if more than 30 days: _____) is requested under 18 U.S.C. § 3103a, the basis of which is set forth on the attached sheet.



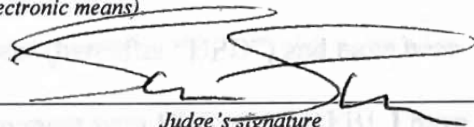
Applicant's signature

Task Force Officer David Helms, FBI

Printed name and title

Attested to by the applicant in accordance with the requirements of Fed. R. Crim. P. 4.1 by
 telephone _____ (specify reliable electronic means)

Date: 03/22/2023



Judge's signature

City and state: Houston, TX

Hon. Sam S. Sheldon, U.S. Magistrate Judge

Printed name and title

IN THE UNITED STATES DISTRICT COURT
FOR HOUSTON DIVISION

IN THE MATTER OF THE SEARCH OF
INFORMATION ASSOCIATED WITH
PARTICULAR CELLULAR TOWERS -
T-MOBILE USA, INC

Case No.

4:23-mj-548

**AFFIDAVIT IN SUPPORT OF
AN APPLICATION FOR A SEARCH WARRANT**

I, Sergeant David Helms, being first duly sworn, hereby depose and state as follows:

INTRODUCTION AND AGENT BACKGROUND

1. I make this affidavit in support of an application for a search warrant for records and information associated with certain cellular towers (hereafter "cell towers") that is in the possession, custody, and/or control of T-Mobile USA, Incorporated (hereafter "Inc."), a cellular service provider headquartered at 4 Sylvan Way, Parsippany, New Jersey 07054. The information to be searched is described in the following paragraphs and in Attachment A. This affidavit is made in support of an application for a search warrant under 18 U.S.C. § 2703(c)(1)(A) to require T-Mobile USA, Inc. to disclose to the government copies of the information further described in Section I of Attachment B. Upon receipt of the information described in Section I of Attachment B, government-authorized persons will review the information to locate items described in Section II of Attachment B.

2. I am a Task Force Officer with the Federal Bureau of Investigation (hereafter "FBI") and a Sergeant with the Houston Police Department (hereafter "HPD") and have been employed by HPD since May of 2006. During my employment with HPD and the FBI, I have

been trained in investigations relating to violations of the United States Federal Criminal Code, including Title 18 of the United States Code (hereafter "USC"), specifically criminal violations involving organized crime, bank robbery, kidnapping, interference with commerce by threats or violence, and extortions. I am currently assigned to the Houston Division of the FBI, Violent Crime Task Force (hereafter "VCTF"), and have been since August 2023. I was previously assigned to the FBI VCTF from 2016-2021. My primary investigative responsibilities include crimes occurring within the United States District for the Southern District of Texas.

3. The facts in this affidavit come from my personal observations, my training and experience, and information obtained from other agents, law enforcement, and witnesses. This affidavit is intended to show merely that there is sufficient probable cause for the requested warrant and does not set forth all of my knowledge about this matter.

4. Based on the facts set forth in this affidavit, there is probable cause to believe that violations of Title 18 USC 2113(a), whoever in any way or degree obstructs, delays, or affects commerce or the movement of any article or commodity in commerce, by robbery or extortion or attempts or conspires so to do, or commits or threatens physical violence to any person or property in furtherance of a plan or purpose to do anything in violation of this section, have been committed, are being committed, and/or will be committed by unidentified subjects (hereafter "UNSUBS"). There is also probable cause to search the information described in Attachment A for evidence, instrumentalities, or fruits of these crimes as further described in Attachment B.

PROBABLE CAUSE

5. Your Affiant has learned through investigations with the FBI Houston Violent Crime Task Force (VCTF) that Gabriel Rivera (RIVERA) was working in the normal course of his duties, as a teller at Regions bank, 5890 San Felipe Houston TX 77057 on January 5, 2023 at approximately 1535 hours. RIVERA stated he observed the lone UNSUB, an African American male in his late 20's early 30's, 5'7" -5'10" in height, weighing approximately 220#, enter the bank in a suit talking on his cellular phone. RIVERA stated the UNSUB approached and presented a demand note on a lined yellow piece of paper that appeared to be ripped from a pad which read "This is a robbery, I need \$40,000.00". RIVERA stated the UNSUB then pulled from his suit jacket a two tone (silver slide, black grip) semi-automatic pistol. RIVERA stated he was then commanded to stand up and walk towards the back of the bank. RIVERA stated in following the UNSUB's commands the UNSUB also commanded his co-worker JESSICA FRAUSTO (FRAUSTO) to move. RIVERA stated the UNSUB then commanded him to open the vault door which is in a separate room. RIVERA stated he complied fearing his life. RIVERA stated once the door to the vault room was open the UNSUB commanded them to open the vault. RIVERA stated he explained it was on a time delay and would not open for 10 minutes. RIVERA stated the UNSUB commanded his co-worker to get down on the ground. RIVERA stated both he and his co-worker were made to sit and lay on the floor with their heads down to avoid eye contact. RIVERA stated as time went on the UNSUB got impatient stating "if this doesn't open in 3 minutes it's not going to look good, I don't give a fuck."

6. RIVERA stated the vault beeped notifying him it was open. RIVERA stated the UNSUB never touched anything but the money and RIVERA was made to open all the drawers

after the UNSUB saw how little was in the actual vault. RIVERA stated the UNSUB commanded his co-worker to open the remaining drawers but only got \$4550.00 in United States currency from the vault. RIVERA stated the UNSUB requested a bag and the only bag available was a clear shred bag which infuriated the UNSUB. RIVERA stated the UNSUB then stuffed the money in his suit. RIVERA stated the UNSUB commanded him to walk him out of the bank. RIVERA stated the UNSUB left the location eastbound on foot traveling on San Felipe.

7. Affiant responded to a second bank robbery at Origin Bank, 1702 Fountain View Houston TX 77057 on January 24, 2023, which occurred at approximately 1400 hours. At the bank, Affiant met with the complainant, Daisy Patino (PATINO) who is employed by Origin as a teller. PATINO stated the bank has controlled access and her co-worker let the UNSUB into the location. PATINO stated the UNSUB, an African American male, wearing a sports coat, in his 40's, approximately 5'9"-5'11" weighing over 200 pounds entered the bank. PATINO stated once in the bank the UNSUB approached her desk. PATINO stated the UNSUB presented a demand note to her manager which read "THIS IS A ROBBERY I NEED \$50,000". PATINO stated then the UNSUB demanded orally "give me the money, all large bills". PATINO stated the UNSUB had his hand in his jacket like he was holding a gun. PATINO stated her and her manager complied fearing their safety. PATINO stated she turned over all the hundred and fifty dollar bills she had. PATINO stated the UNSUB pulled a bag from his person that was similar in size and quality to an Old Navy bag. PATINO stated the UNSUB then went to her co-worker and had her empty her drawer. Affiant learned through the investigation that the UNSUB stole \$12,276.00 in United States currency between both teller drawers.

8. Affiant has been a law enforcement officer for 16 years and has experience in investigating crimes where cellular phones and social media have been used to commit offenses.

Your Affiant knows from training and experience that individuals engaged in the activities described herein, often use cell phones and social media to communicate in furtherance of criminal activity. In past investigations, Affiant has received call detail record data showing that robbery participants will often speak on the phone together to allow look-outs to provide information to gunmen and will then use cell phones after the robbery to alert switch car drivers that they are coming and to determine a switch location. Affiant knows from past experience that cellular providers keep records of what cellular numbers are being utilized by each cellular tower and at what time that tower was being used. Affiant believes that information will be found within the records maintained by T-Mobile which will be relevant to this criminal investigation. Affiant believes that common numbers will be found between the various offense locations that may identify the subjects involved in this incident. Based on the investigation conducted to date, it is believed that the intimidation, threat of violence, and brandishing of a firearm against RIVERA and PATINO was intended as a prelude and during the commission of a robbery in violation of Title 18, United States Code, 2113(a), and 924(c).

AUTHORIZATION REQUEST

9. Based on the foregoing, I request that the Court issue the proposed search warrant, pursuant to 18 U.S.C. § 2703(c) and Federal Rule of Criminal Procedure 41.

10. I further request that the Court direct T-Mobile USA, Inc., to disclose to the government any information described in Section I of Attachment B that is within its possession, custody, or control. Because the warrant will be served on T-Mobile USA, Inc. who

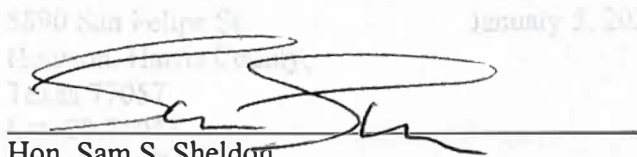
will then compile the requested records at a time convenient to it, reasonable cause exists to permit the execution of the requested warrant at any time in the day or night.

Respectfully submitted,



David Helms
Task Force Officer
Federal Bureau of Investigation

Subscribed and sworn to before me via telephone on March 22, 2023 and I find probable cause.



Hon. Sam S. Sheldon
UNITED STATES MAGISTRATE JUDGE

1702 Fountain View Dr
Pecanaland, Brazoria County,
Texas 77607
Int: 281-4974
Long: 936-45335

ATTACHMENT A**Property to Be Searched**

This warrant applies to records and information associated with the following cellular antenna towers ("cell towers") at the following dates and times:

<u>Cell Tower Location</u>	<u>Dates</u>	<u>Times (Central Time)</u>
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The cell towers that provided cellular service to:

5890 San Felipe St
Houston, Harris County,
Texas 77057
Lat: 29.75045
Long: -95.48570

January 5, 2023

2:00 PM to 3:00 PM

1702 Fountain View Dr
Pearland, Brazoria County,
Texas 775057
Lat: 29.74974
Long: -95.48635

January 24, 2023

1:15 PM to 2:15 PM

ATTACHMENT B

Particular Things to be Seized

I. Information to be Disclosed by the Provider

For each cell tower in described in Attachment A, the cellular service providers identified below are required to disclose to the United States all records and other information (not including the contents of communications) about all communications made using the cell tower during the corresponding timeframe(s) listed in Attachment A, including records that identify:

- a. the telephone call number and unique identifiers for each wireless device in the vicinity of the cell tower (“the locally served wireless device”) that registered with the cell tower, including Electronic Serial Numbers (“ESN”), Mobile Electronic Identity Numbers (“MEIN”), Mobile Identification Numbers (“MIN”), Subscriber Identity Modules (“SIM”), Mobile Subscriber Integrated Services Digital Network Numbers (“MSISDN”), International Mobile Subscriber Identifiers (“IMSI”), and International Mobile Equipment Identities (“IMEI”);
- b. the source and destination telephone numbers associated with each communication (including the number of the locally served wireless device and the number of the telephone that transmitted a communication to, or to which a communication was transmitted by, the locally served wireless device);
- c. the date, time, and duration of each communication;
- d. for each communication, the “sector(s)” (i.e. the face(s) of the tower(s)) that received a radio signal from the locally served wireless device; and

- e. the type of the communication transmitted through the tower (such as phone call or text message).
- f. Any distance or range measurement from the tower to the mobile device. (RTT Data - Range To Tower) and/or Per Call Measurement Data (PCMD) and/or Tru-Call Data/TDOA, and/or MDT (Minimization of Drive Test) data.
- g. The cellular provider (T-Mobile) to provide all tower data within a radius of 2 miles from offense locations 5890 San Felipe St. and 1702 Fountain View Dr.

These records should include records about communications that were initiated before or terminated after the timeframe(s) identified in Attachment A if some part of the communication occurred during the relevant timeframe(s) listed in Attachment A.

The following cellular service providers are required to disclose information to the United States pursuant to this warrant:

1. T-Mobile USA, Inc., a cellular service provider headquartered at 4 Sylvan Way, Parsippany, New Jersey 07054 ;

II. Information to be Seized by the Government

All information described above in Section I that constitutes evidence of violations of Title 18 U.S.C. 2113(a), and Title 18 U.S.C. 924(c) on January 5, 2023 and January 24, 2023.